

REMARKS

By the foregoing amendments the substitute specification has been amended on page 37 to correct a minor error and in the paragraph bridging pages 37 and 38 to include an additional reference to the features of the embodiment of the invention depicted in Figure 51, the elected prosthetic foot species. No new matter has been added. Claims 1-42 have been cancelled and new claims 43-52 have been added. Thus, claims 43-52 are in the application. The new claims are directed to the elected species.

The outstanding rejections of the application claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 7,374,578 and the provisional rejection under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending claims in the co-pending applications referred to on page 4 of the Office Action, have been rendered moot by the cancellation of claims 1-42. It is respectfully submitted that new claims 43-52 are patentably distinct from the claims of the aforementioned patent and pending applications.

Independent claim 43 is directed to a lower extremity prosthesis of the invention which comprises a resilient foot, a resilient leg portion attached to the foot, wherein the resilient leg portion includes a plurality of elongated, upwardly extending resilient members which are anterior facing convexly curved at their lower ends and which store energy during force loading of the prosthesis and return energy during force unloading to increase the kinetic power generated for propulsive force by the prosthesis. This improved lower extremity prosthesis of the invention is not obvious from the claims of U.S. Patent No. 7,374,578 or the claims from the aforementioned co-pending


applications. The new claims are also believed to patentably define over the cited references to Carter, U.S. 2,453,969, German De 299 20 434 U1, and Pitkin, U.S. 5,376,139, relied upon on our standing rejections of the cancelled claims under 35 U.S.C. § 102(b). The cited reference do not disclose or suggest the lower extremity prosthesis of new claims 43-52.

In view of the above amendments and remarks, it is believed that the application is now in condition for allowance with claims 43-52. Accordingly, reconsideration and allowance is respectfully requested.

An Information Disclosure Statement is filed herewith.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 183.39735AX9) and please credit any excess fees to such deposit account.

Respectfully submitted,

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